

**SUPP. EXHIBIT D**

LYLE S. HOSODA & ASSOCIATES

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Attorneys for Defendants  
MARK DILLON, BRIAN CHRISTENSEN  
and TERESA NOA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen,	)	CIVIL NO. CV03-00385 SOM-LEK
	)	(Copyright)
Plaintiff,	)	
	)	DEFENDANT MARK DILLON'S FIRST
v.	)	SUPPLEMENTAL RESPONSE TO
	)	PLAINTIFF WAYNE BERRY'S SECOND
HAWAIIAN EXPRESS SERVICE,	)	REQUEST FOR PRODUCTION OF
INC., a California	)	DOCUMENTS AND THINGS, DATED
corporation; H.E.S.	)	NOVEMBER 3, 2003; CERTIFICATE
TRANSPORTATION SERVICES, INC.,	)	OF SERVICE
a California corporation;	)	
CALIFORNIA PACIFIC	)	
CONSOLIDATORS, INC., a	)	
California corporation;	)	
JEFFREY P. GRAHAM and PETER	)	
SCHAUL, California citizens;	)	
MARK DILLON and TERESA NOA,	)	
BRIAN CHRISTENSEN, Hawaii	)	
citizens; FLEMING COMPANIES,	)	
INC., an Oklahoma corporation;	)	
C & S LOGISTICS OF HAWAII,	)	
LLC, a Delaware LLC; C & S	)	
WHOLESALE GROCERS, INC., a	)	
Vermont corporation; C & S	)	
ACQUISITIONS, LLC; FOODLAND	)	[caption continued on next
SUPER MARKET, LIMITED, a	)	page]
Hawaii corporation; HAWAII	)	

SPECIFIC RESPONSES AND OBJECTIONS TO PLAINTIFF'S REQUESTS

2. Any and all documents created after April 1, 2003, related to computer software system[s] that Fleming Companies, Inc. allegedly sold to C&S Acquisitions, LLC and/or any of its affiliates (hereinafter collectively "C&S") through an asset purchase agreement or otherwise transferred to C&S related to the Fleming Hawaii Division, including, but not limited to, all documents related to the software system that allegedly replaced the freight control system that was the subject of Wayne Berry v. Fleming Companies, Inc., et al., Civ. No. 01-00446 SPK LEK (U.S.D.C. Hawaii) including, but not limited to, any and all notes and emails related to this replacement.

RESPONSE:

Defendant objects to the Request insofar as it improperly seeks documents, which are irrelevant, burdensome, intrusive, oppressive, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to the Request insofar as it seeks documents not subject to discovery because they are protected as attorney-client communications and trial preparation materials.

Without waiving any of his objections, Defendant produces a CD labeled "Dillon Discovery Berry Suit".

DATED: Honolulu, Hawaii, DEC 18 2003.



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FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen, ) CIVIL NO. CV03-00385 SOM-LEK  
Plaintiff, ) (Copyright)  
v. ) CERTIFICATE OF SERVICE  
HAWAIIAN EXPRESS SERVICE, )  
INC., et al. )  
Defendants. )

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that two (2) copies of the foregoing document was served on DEC 18 2003, by means of Hand Delivery upon the following at their last known address as set forth below:

TIMOTHY J. HOGAN, ESQ. (Via Hand Delivery)  
Lynch, Ichida, Thompson, Kim & Hirota  
1132 Bishop Street, Suite 1405  
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Attorney for Plaintiff  
WAYNE BERRY

The undersigned further certifies that a true and correct copy of the foregoing document was served on DEC 18 2003, by means of Hand Delivery and/or U.S. mail upon the following at their last known address as set forth below:

KAREN L.S. FINE, ESQ. (Via U.S. Mail)  
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and